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DEPARTMENT OF COMMERCE  
International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Reviews; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) is conducting new shipper reviews (NSR) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). The NSRs cover Foshan Fuyi Food Co., Ltd. (Fuyi) and Qingdao May Carrier Import & Export Co., Ltd. (Maycarrier) for the period of review (POR) November 1, 2010, through October 31, 2011. The Department has preliminarily determined that Fuyi's new shipper sales are not bona fide, and that Maycarrier does not qualify as a new shipper. Additionally, record evidence raises questions concerning the bona fides of Maycarrier's POR sales. Therefore, the Department is preliminarily rescinding these NSRs.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482-2316.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the

HTSUS numbers are provided for convenience and customs purposes, the written product description, available in Antidumping Duty Order: Fresh Garlic from the People's Republic of China, 59 FR 59209 (November 16, 1994), remains dispositive.

#### Methodology

The Department has conducted this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (Act) and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, see "Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Fresh Garlic from the People's Republic of China", from Susan H. Kuhbach, Director, Office 1, Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://iaaccess.trade.gov>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Preliminary Rescission of Fuyi and Maycarrier

For the reasons detailed in the Preliminary Decision Memorandum, the Department finds that Fuyi's sales under review are not bona fide, therefore, these sales do not provide a

reasonable or reliable basis for calculating a dumping margin. As result, the Department is preliminarily rescinding the NSR of Fuyi.

Based on information that Maycarrier submitted after the initiation of the NSR, the Department has now determined that Maycarrier did not meet the minimum requirements in its request for an NSR under 19 CFR 351.214(b)(2)(iv)(C). Additionally, the Department has concerns regarding whether Maycarrier's POR sales were bona fide commercial transactions. Therefore, the Department preliminarily determines that it is appropriate to rescind the NSR for Maycarrier.

#### Assessment Rates

Fuyi's and Maycarrier's entries are currently subject to the PRC-wide rate. Although the Department intends to rescind the NSRs for both companies, the Department is currently conducting an administrative review for the POR November 1, 2010, through October 31, 2011, which could include the entries subject to these NSRs. Accordingly, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend entries during the period November 1, 2010, through October 31, 2011, of subject merchandise exported by Fuyi and Maycarrier until CBP receives instructions relating to the administrative review covering the period November 1, 2010, through October 31, 2011.

#### Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of these NSRs, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Fuyi and Maycarrier. If we proceed to a final rescission of either of these NSRs, the cash deposit rate will continue to be the per-unit PRC wide rate for

Fuyi and Maycarrier. If we issue final results of the NSR for any of these respondents, we will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

### Disclosure

The Department will disclose analysis performed to parties to the proceeding, normally not later than ten days after the day of the public announcement of, or, if there is no public announcement, within five days after the date of publication of, this notice. See 19 CFR 351.224(b).

### Comments

Interested parties are invited to comment on these preliminary results and submit written arguments or case briefs within 30 days after the date of publication of this notice, unless otherwise notified by the Department. See 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later. See 19 CFR 351.309(d). Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days after the day of publication of this notice. A request should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case briefs. The Department will issue the final rescissions or final results of NSRs, including

the results of our analysis of issues raised in any briefs, within 90 days after the date on which the preliminary rescissions were issued, unless the deadline for the final results is extended. See 19 CFR 351.214(i).

Notification to Importers

This notice serves as a preliminary reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The NSRs and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f).

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Paul Piquado  
Assistant Secretary  
for Import Administration

October 18, 2012 \_\_\_\_\_  
Date